S.B. Civil Writ Petition NO.564/2005

Smt. Jasoda Devi & Ors.

vs

Shri Chamunda Mata Mandir Trust, Sirohi & Ors.

DATE OF ORDER : - 13.5.2005.

HON'BLE MR. PRAKASH TATIA,J.

Mr.Surendra Surana, for the petitioner.
Mr.JP Chhangani, for the respondent.

<><><>

Heard learned counsel for the parties.

It appears that the petitioner submitted an application under Order 6 Rule 17 CPC for amending the written statement, but the said application was dismissed by the trial court on the ground that the amendment has been sought after inordinate delay for which petitioner submits that the event happened in the year 2003 only when another suit premises of the landlord came in possession of the landlord and landlord let out the premises to the other party. According to learned counsel for the petitioner that fact was relevant for the purpose of judging the personal bonafide necessity of the plaintiff and was also relevant for the purpose of assessing the comparative hardship. It appears that the trial court considered the facts of the case and legal

position and, thereafter, passed the impugned order. Therefore, it will be just and proper for the petitioner to challenge the impugned order dated 20th Sept., 2004 in appeal in case any occasion arises for the petitioner for doing so after the decision of the suit, but this Court is not inclined to entertain the writ petition in such a mater after going through the reasons given in the impugned order because the order cannot be said to be wholly without jurisdiction or has been passed arbitrarily.

In view of the above, the writ petition of the petitioner is dismissed with liberty to the petitioner to challenge the impugned order in appeal in case any occasion arises for doing so. The stay order passed by this Court on 29.1.2005 is vacated and the stay petition is dismissed. The intimation be sent to the trial court.

(Prakash Tatia), J.

c.p.goyal/-